

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

**SESSION LAW 2011-104  
SENATE BILL 512**

AN ACT TO AUTHORIZE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES  
TO PILOT AN OVERNIGHT RESPITE PROGRAM IN FACILITIES THAT OFFER  
ADULT DAY CARE.

Whereas, the population of adults who are elderly or disabled in North Carolina is expected to increase, thereby increasing the need for safe and available overnight respite care; and

Whereas, adult day care provides group care and supervision to adults who may be physically or mentally disabled; and

Whereas, adult day care provides care and supervision during the day, allowing caregivers a time of respite or allowing caregivers to attend to other duties, including work; and

Whereas, adult day care allows individuals to remain in their communities and/or in familiar surroundings, thereby prolonging or eliminating the need for placement in a long-term care facility; Now, therefore,

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** Notwithstanding G.S. 131D-6(b), the Department of Health and Human Services shall conduct a pilot program to assess the provision of overnight respite services in adult day care programs. The Secretary shall select a minimum of two, and a maximum of four, stable and successful certified adult day care programs in which to conduct the pilot. At least two of the programs selected shall be operated by an organization that has been offering adult day care in North Carolina since 1980 and has received national recognition including all of the following criteria: designated as a National Model Adult Day Care Center by the Robert Wood Johnson Foundation, designated as the only Teaching Day Center for recipients of North Carolina adult day care startup funds, received the North Carolina Non-Profit Center's Non-Profit Sector Stewardship Award for exemplary stewardship of resources, and received Leadership in Energy and Environmental Design (LEED) certification.

**SECTION 1.(b)** The provision of 24-hour care under this act shall not exceed 14 consecutive calendar days, or more than 60 total calendar days, during a 365-day period, for each participant receiving overnight respite services. The capacity of the 24-hour overnight respite program authorized under this act shall not exceed six beds. The State is not authorized to pay for any overnight respite services offered through this pilot, and the pilot shall not be eligible to enroll or otherwise participate in the Medicaid program.

**SECTION 1.(c)** An adult day care program participating in this pilot shall be currently certified by the Department to provide adult day care. An adult day care program participating in the pilot shall be exempt from adult care home licensure pursuant to Article 1 of Chapter 131D of the General Statutes and shall be exempt from licensure under Chapter 131E and Chapter 122C of the General Statutes. The Department of Health and Human Services shall adopt rules to include minimum requirements to ensure the health and safety of adult day care overnight respite participants. These requirements shall specify program management, staffing, building specifications, fire safety, sanitation, nutrition, enrollment,



medication management, and program activities. Participant assessments conducted by the adult day care pilot programs shall provide sufficient information to ensure appropriate care and to protect the health and safety of participants but shall not be more onerous than current adult day care assessments. The Division of Health Service Regulation shall have the authority to enforce the rules adopted by the Department. Prior to the provision of overnight respite services, an adult day care program participating in the pilot shall receive an initial inspection by the Division of Health Service Regulation for compliance with the rules. On a basis not less than every six months, the Division of Health Service Regulation shall conduct monitoring visits and shall also be responsible for the investigation of complaints. Each adult day care program participating in the pilot shall periodically report the number of individuals served and the average daily census to the Division of Health Service Regulation, on a schedule determined by the Division. The Division of Health Service Regulation shall have the authority to suspend admissions or terminate the pilot program at any time due to noncompliance with regulatory requirements which has resulted in death or serious physical harm, or when there is a substantial risk that death or serious physical harm will occur.

**SECTION 2.** The Department of Health and Human Services shall report on the status of the pilot once a year to the Program Evaluation Division. The Program Evaluation Division shall evaluate the provision of overnight respite services in an adult day care program through the experiences of this pilot. The evaluation shall include whether this pilot was successful as measured by the participants in receipt of overnight respite, the primary caregivers of participants, the adult day care programs participating in the pilot, and the Department of Health and Human Services. On or before October 1, 2014, the Program Evaluation Division shall provide a report to the General Assembly on the feasibility of continuing to provide overnight respite in an adult day care program.

**SECTION 3.** This act becomes effective when it becomes law; adult day care programs participating in the pilot shall be selected and have received an initial inspection by January 1, 2012; and this act is repealed June 1, 2015.

In the General Assembly read three times and ratified this the 26<sup>th</sup> day of May, 2011.

s/ Walter H. Dalton  
President of the Senate

s/ Thom Tillis  
Speaker of the House of Representatives

s/ Beverly E. Perdue  
Governor

Approved 9:10 a.m. this 2<sup>nd</sup> day of June, 2011